

Assembly Bill No. 816

Passed the Assembly May 19, 2005

Chief Clerk of the Assembly

Passed the Senate September 6, 2005

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2005, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 6276.12 of the Government Code, and to amend Section 147.2 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 816, Lieber. Hazard evaluation system and information service.

Existing law requires the Department of Industrial Relations, with the State Department of Health Services, to establish a repository of current data on toxic materials and harmful physical agents in use or potentially in use in places of employment in the state. That law requires the repository, among other things, to provide information and collect and evaluate data relating to possible hazards to employees resulting from exposure to toxic materials or harmful physical agents. That law expressly does not require employers to report any information not otherwise required by law.

This bill would require, upon written request from the repository, chemical manufacturers, suppliers, distributors, importers, and their agents to provide to the repository the names and addresses of their customers who have purchased specified chemicals or commercial products containing those chemicals, and would deem this information to be confidential. This bill would also provide that the State Department of Health Services shall be entitled to reimbursement of attorney's fees and costs incurred in seeking an injunction to enforce this requirement.

Existing law, the California Public Records Act, requires certain public records to be made available for public inspection, and lists records that are exempt from disclosure under the act.

This bill would exempt from public disclosure under the act the names and addresses of chemical manufacturers, suppliers, distributors, importers, and their agents, that would be required to be provided to the repository pursuant to this act, as confidential, but would provide that those names and addresses may be disclosed to officers or employees of the state not affiliated with the repository who are responsible for carrying out the provisions of the Labor Code relating to safety in employment. The bill

would also state findings and declarations of the Legislature for limiting the public's right of access to the names and addresses of those customers.

The people of the State of California do enact as follows:

SECTION 1. Section 6276.12 of the Government Code is amended to read:

6276.12. Conservatee, confidentiality of the conservatee's report, Section 1826, Probate Code.

Conservatee, estate plan of, confidentiality of, Section 2586, Probate Code.

Conservatee with disability, confidentiality of report, Section 1827.5, Probate Code.

Conservator, confidentiality of conservator's birthdate and driver's license number, Section 1834, Probate Code.

Conservator, supplemental information, confidentiality of, Section 1821, Probate Code.

Conservatorship, court review of, confidentiality of report, Section 1851, Probate Code.

Consumer credit report information prohibited from being furnished for employment purposes, Section 1785.18, Civil Code.

Consumer fraud investigations, access to complaints and investigations, Section 26509, Government Code.

Consumption or utilization of mineral materials, disclosure of, Section 2207.1, Public Resources Code.

Contractor, evaluations and contractor responses, confidentiality of, Section 10370, Public Contract Code.

Contractor, license applicants, evidence of financial solvency, confidentiality of, Section 7067.5, Business and Professions Code.

Controlled Substance Law violations, confidential information, Section 818.7, Government Code.

Controlled substance offenders, confidentiality of registration information, Section 11594, Health and Safety Code.

Cooperative Marketing Association, confidential information disclosed to conciliator, Sections 54453 and 54457, Food and Agricultural Code.

Coroner, inquests, subpoena duces tecum, Sections 27491.8 and 27498, Government Code.

Corporations, commissioner, publication of information filed with commissioner, Section 25605, Corporations Code.

County alcohol programs, confidential information and records, Section 11812, Health and Safety Code.

County Employees' Retirement, confidential statements and records, Section 31532, Government Code.

County mental health system, confidentiality of client information, Section 5610, Welfare and Institutions Code.

County social services, investigation of applicant, confidentiality, Section 18491, Welfare and Institutions Code.

County social services rendered by volunteers, confidentiality of records of recipients, Section 10810, Welfare and Institutions Code.

Court files, access to, restricted for 60 days, Section 1161.2, Code of Civil Procedure.

Court reporters, confidentiality of records and reporters, Section 68525, Government Code.

Court-appointed special advocates, confidentiality of information acquired or reviewed, Section 105, Welfare and Institutions Code.

Crane employers, previous business identities, confidentiality of, Section 7383, Labor Code.

Credit unions, confidentiality of investigation and examination reports, Section 14257, Financial Code.

Credit unions, confidentiality of employee criminal history information, Section 14409.2, Financial Code.

Credit unions, confidentiality of financial reports, Section 16120, Financial Code.

Criminal defendant, indigent, confidentiality of request for funds for investigators and experts, Section 987.9, Penal Code.

Criminal felon placed in diagnostic facility, confidentiality of report of diagnosis and recommendation, Sections 1203.3 and 1543, Penal Code.

Criminal offender record information, access to, Sections 11076, 11077, 11081, 13201, and 13202, Penal Code.

Criminal records information, disclosure by vendor, Section 11149.4, Penal Code.

Crop reports, confidential, subdivision (e), Section 6254, Government Code.

Customer list of employment agency, trade secret, Section 16607, Business and Professions Code.

Customer list of telephone answering service, trade secret, Section 16606, Business and Professions Code.

Customer list of chemical manufacturers, suppliers, distributors, importers, and their agents, confidential, Section 147.2, Labor Code.

SEC. 2. Section 147.2 of the Labor Code is amended to read:

147.2. (a) In accordance with Chapter 2 (commencing with Section 6350) of Part 1 of Division 5 of this code and Section 105175 of the Health and Safety Code, the Department of Industrial Relations shall, by interagency agreement with the State Department of Health Services, establish a repository of current data on toxic materials and harmful physical agents in use or potentially in use in places of employment in the state.

(b) The repository shall fulfill all of the following functions:

(1) Provide reliable information of practical use to employers, employees, representatives of employees, and other governmental agencies on the possible hazards to employees of exposure to toxic materials or harmful physical agents.

(2) Collect and evaluate toxicological and epidemiological data and any other information that may be pertinent to establishing harmful effects on health of exposure to toxic materials or harmful physical agents. Nothing in this subdivision shall be construed as authorizing the repository to require employers, other than chemical manufacturers, suppliers, distributors, importers, and their agents, to report any information not otherwise required by law.

(3) Upon written request by the repository, chemical manufacturers, suppliers, distributors, importers, and their agents shall provide to the repository the names and addresses of their customers who have purchased certain chemicals, as specified by the repository, or commercial products containing those chemicals.

(A) The names and addresses of customers provided by chemical manufacturers, suppliers, distributors, importers, and their agents pursuant to this paragraph shall be considered confidential and exempt from public disclosure under the

California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), except that those names and addresses may be disclosed to officers or employees of the state not affiliated with the repository who are responsible for carrying out the purposes of Division 5 (commencing with Section 6300).

(B) The State Department of Health Services shall be entitled to reimbursement of attorney's fees and costs incurred in seeking an injunction to enforce the requirements of this paragraph.

(4) Recommend to the Chief of the Division of Occupational Safety and Health Administration that an occupational safety and health standard be developed whenever it has been determined that a substance in use or potentially in use in places of employment is potentially toxic at the concentrations or under the conditions used.

(5) Notify the Director of Food and Agriculture of any information developed by the repository that is relevant to carrying out his or her responsibilities under Chapters 2 (commencing with Section 12751) and 3 (commencing with Section 14001) of Division 7 of the Food and Agricultural Code.

(c) The Director of Industrial Relations shall appoint an Advisory Committee to the repository. The Advisory Committee shall consist of four representatives from labor, four representatives from management, four active practitioners in the occupational health field, and three persons knowledgeable in biomedical statistics or information storage and retrieval systems. The Advisory Committee shall meet on a regular basis at the request of the director. The committee shall be consulted by, and shall advise the director at each phase of the structuring and functioning of the repository and alert system with regard to, the procedures, methodology, validity, and practical utility of collecting, evaluating, and disseminating information concerning hazardous substances, consistent with the primary goals and objectives of the repository.

(d) Nothing in this section shall be construed to limit the ability of the State Department of Health Services to propose occupational safety and health standards to the Occupational Safety and Health Standards Board.

(e) Policies and procedures shall be developed to assure, to the extent possible, that the repository uses and does not duplicate the resources of the federal government and other states.

(f) On or before December 31 of each year, the Department of Industrial Relations shall submit a report to the Legislature detailing the implementation and operation of the repository, including, but not limited to, the amount and source of funds allocated and spent on repository activities, the toxic materials and harmful physical agents investigated during the past year and recommendations made concerning them, actions taken to inform interested persons of the possible hazards of exposure to toxic materials and harmful physical agents, and any recommendations for legislative changes relating to the functions of the repository.

SEC. 3. The Legislature finds and declares that Section 1 of this act, which amends Section 6276.12 of the Government Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest: in order to protect the names and addresses of customers who have purchased chemicals from chemical manufacturers, suppliers, distributors, importers, and their agents, it is necessary that lists containing those names and addresses be exempt from disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

Approved _____, 2005

Governor